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**FILED**  
NOV 23 2011  
RICHARD W. WICKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

**NC**

MOISES MEMESES,

Plaintiff,

v.

COMMERCIAL RECOVERY  
SYSTEMS, INC.,

Defendant.

Case No.: **CV 11 5682**

**VERIFIED COMPLAINT**

**(Unlawful Debt Collection Practices)**

*E-filing*

**VERIFIED COMPLAINT**

MOISES MEMESES ("Plaintiff"), by attorneys, KROHN & MOSS, LTD., alleges the following against COMMERCIAL RECOVERY SYSTEMS, INC. ("Defendant"):

**INTRODUCTION**

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. ("FDCPA").
2. Count II of Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §1788 et seq. ("RFDCPA").

**JURISDICTION AND VENUE**

3. Jurisdiction of this Court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. 1367 grants this court supplemental jurisdiction over the state claims contained therein.
4. Defendant conducts business in the state of California; therefore, personal jurisdiction is established.
5. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

**PARTIES**

6. Plaintiff is a natural person residing in Pacifica, San Mateo County, California.
7. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5) and Cal. Civ. Code § 1788.2(h).
8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6) and Cal. Civ. Code §1788.2(c), and sought to collect a consumer debt from Plaintiff.
9. Plaintiff is informed and believes, and thereon alleges, that Defendant is a national company with an office in Dallas, Texas.
10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

**FACTUAL ALLEGATIONS**

11. On or around August of 2011, Plaintiff began receiving calls from Defendant in connection with an alleged debt.
12. Defendant calls Plaintiff from 800-214-5388, 800-214-5329, 214-319-5329, and possibly other numbers also.

1 13. Plaintiff receives Defendant's calls from individuals named "Marcus Hampton,"  
2 "Niroby," and "Ruby."

3 14. Since the earliest calls, Plaintiff has disputed the debt and requested that calls cease.

4 15. Despite the foregoing, Defendant has continued to contact Plaintiff at his number, ending  
5 in -3166, and also his wife's number, ending in -0041, on a daily basis.

6 16. Defendant has called Plaintiff at his place of employment on repeated occasions, after  
7 being told repeatedly that such calls are prohibited.

8 17. Defendant has spoken to at least four other employees at Plaintiff's place of  
9 employment, in search of Plaintiff.

10 18. Defendant has made repeated threats against Plaintiff, including, but not limited to, that  
11 if Plaintiff did not immediately return Defendant's calls, he would have 25% of his  
12 wages garnished.

13 19. Defendant has stated to Plaintiff that, since he does not return the calls promptly, that  
14 Plaintiff should "pack up and move back to the Philippines."

15 20. Despite the foregoing, Defendant has continued to call Plaintiff, typically once but often  
16 more than once per day, seeking and demanding payment on an alleged debt.

17  
18 **COUNT I:**  
19 **DEFENDANT VIOLATED THE FAIR DEBT**  
20 **COLLECTION PRACTICES ACT**

21 21. Defendant violated the FDCPA based on, but not limited to, the following:

- 22 a. Defendant violated §1692c(a)(3) of the FDCPA by communicating with the  
23 consumer at the consumer's place of employment, while knowing or having  
24 reason to know the consumer's employer prohibits such communications;
- 25 b. Defendant violated §1692c(b) of the FDCPA by communicating with third  
parties, without the prior consent of the consumer, in connection with the  
collection of a debt;
- c. Defendant violated §1692d of the FDCPA by engaging in conduct the natural  
consequence of which is to harass, oppress, or abuse any person in connection

with the collection of a debt;

- d. Defendant violated § 1692d(2) of the FDCPA through the use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader;
- e. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number;
- f. Defendant violated §1692e of the FDCPA by using false, deceptive, or misleading representations or means in connection with the collection of a debt; and
- g. Defendant violated §1692e(4) of the FDCPA by making the representation or implication that nonpayment of any debt will result in the garnishment or attachment of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action.

WHEREFORE, Plaintiff, MOISES MEMESES, respectfully request judgment be entered against Defendant, COMMERCIAL RECOVERY SYSTEMS, INC., for the following:

- 22. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,
- 23. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k
- 24. Any other relief this Court deems appropriate.

**COUNT II:  
DEFENDANT VIOLATED THE ROSENTHAL  
FAIR DEBT COLLECTION PRACTICES ACT**

- 25. Plaintiff repeats and realleges all of the allegations in Count I of Plaintiff's Complaint as the allegations in Count II of Plaintiff's Complaint.
- 26. Defendant violated the RFDCPA based on, but not limited to, the following:
  - a. Defendant violated §1788.11(d) of the RFDCPA by causing a telephone to ring repeatedly and continuously so as to annoy the person called;
  - b. Defendant violated §1788.11(e) of the RFDCPA by placing collection calls with

1 such frequency that was unreasonable and constituted harassment; and

- 2 c. Defendant violated the §1788.17 of the RFDCPA by continuously failing to  
3 comply with the statutory regulations contained within the FDCPA, 15 U.S.C. §  
4 1692 et seq.

5 WHEREFORE, Plaintiff, MOISES MEMESES, respectfully request judgment be entered  
6 against Defendant, COMMERCIAL RECOVERY SYSTEMS, INC., for the following:

7 27. Statutory damages of \$1000.00 pursuant to the Rosenthal Fair Debt Collection Practices  
8 Act, Cal. Civ. Code §1788.30(b),

9 28. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection  
10 Practices Act, Cal. Civ Code § 1788.30(c), and

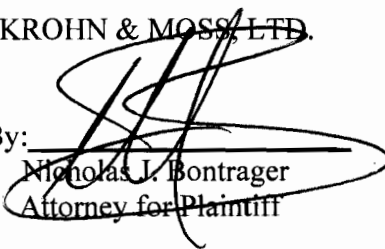
11 29. Any other relief this Court deems appropriate.

12 RESPECTFULLY SUBMITTED,

13 DATED: November 21, 2011

14 KROHN & MOSS, LTD.

15 By:

16   
17 Nicholas J. Bontrager  
18 Attorney for Plaintiff  
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**VERIFICATION OF COMPLAINT AND CERTIFICATION**

STATE OF CALIFORNIA

Plaintiff, MOISES MEMESES, states as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.

Pursuant to 28 U.S.C. § 1746(2), I, MOISES MEMESES, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

DATE: Nov 03, 11

  
MOISES MEMESES